APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/681,448	10/08/2003	Benjamin A. Knott	130332.00079	9392

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AT&T Legal Department - JW
Attn: Patent Docketing
Room 2A-207
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EXAMINER
CARLSON, JEFFREY D

ART UNIT	PAPER NUMBER
3622	

MAIL DATE	DELIVERY MODE
07/14/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/681,448	KNOTT ET AL.
	Examiner	Art Unit
	Jeffrey D. Carlson	3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *22 April 2010*.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *2-5,7-9 and 12-20* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *2-5,7-9 and 12-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1.   This action is responsive to the paper(s) filed 4/22/2010.

Claim Rejections - 35 USC § 103

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

3.   <u>Claims 1-5, 7-9, 12-20 are rejected under 35 U.S.C. 103(a) as being</u>

<u>unpatentable over HERZ et al (US 2001/0014868) in view of Roth et al (US6285987).</u>

4.   Regarding claims 2, 9, 14, 20, HERZ et al teaches a dynamic, electronic,

customized advertising system where online shoppers are profiled based on

demographics as well as online shopping and purchasing history (collecting user data

during prior web site visits) [¶ 0030-0033. Users identify themselves to the web-based

system and then may browse an online catalog for particular products, thus defining a

"goal" for that user [¶ 0035, 0036]; this product-browsing is taken to provide receiving

web site requests for web content by at least 1st and 2nd identified users. The system

then references the user profiles and the defined "goal" and determines customized

advertising/information to be presented to the identified user or type of shopper in order

to provide the most effective visual and textual ads...Displayed content can be subtly

rearranged, lengthened or shortened from one type of shopper to the next [abstract, ¶

5]. Herz et al states that users may be clustered into groups and treated at the group

level [0158]. This is taken to be equivalent to applicant's various user models and customizing the content at the model level [spec page 7 lines 5-10]. HERZ et al does not appear to teach determining the user's group/model according to a type of Internet service. However, Roth et al teaches customizing content to viewers having particular sets of characteristics (i.e. user groups/models) [abstract] whereby the user groups/types/models can be defined not only according to demographics and browsing history [2:14-18] but also according to user characteristics such as IP information, domain name and browser type [10:38-51] as well as "other criteria the advertiser may wish to specify" [14:45-46]. Regarding the bandwidth claim language, the user-specific IP data ("Internet service type data") discussed by Roth et al is indeed provided by the user's Internet Service Provider (ISP) and could be argued to be inherently "indicative" of the traits of the ISP, including being "indicative" of their bandwidth. Let it be clear that applicant's claims do not require the user data to explicitly be or explicitly contain actual bandwidth data - but rather simply be data "indicative" of bandwidth. Further, applicant's targeting is claimed as accomplished by selecting web content for the user groups/models which are determined broadly according to the "Internet service type data" and not explicitly according to the bandwidth. Nonetheless, a user's data (IP address) which defines their ISP as NetZero (a well known dialup ISP) could be argued to be "indicative" of a dial-up connection, and therefore indicative of the bandwidth associated with such dial-up technology. It would have been obvious to one of ordinary skill at the time of the invention to have included the Internet service type data and browser type data in the user grouping/targeting procedure of HERZ et al and to have

stored the groups/models and the customized information in a database so the system

can systematically determine if the current identified user matches (i.e. belongs) to such

a group so that user may then be delivered with the appropriate customized information.

Herz et al's description that the customization of the information may include

"rearrangement" of the product information screen [abstract, 0005: "detailed product

information screens can be subtly rearranged from one type of shopper to the next."] is taken to

provide for delivery of the same content information to the browsers of differently

grouped users requesting the same product information, but with the visual

aspects/formatting of that information differing according to the users profile grouping. It

would have therefore been obvious to have re-arranged/reformatted the content for

delivery using the targeting parameters of HERZ et al and Roth et al in order to provide

highly relevant advertising content and arrangements.

5.   Regarding claims 3-5, 7-8, 15-16, applicant's naming of different user models

with various terms (savings-focused, cost-focused, etc) does not limit or further define

the method steps claimed. However, HERZ et al teaches that different groups can be

identified as this is taken as teachings for different "models." Further HERZ et al

specifies selective profiling and subsequent treatment for shoppers according to price

sensitivity [¶ 5] as well as those who traditionally purchase lower cost alternatives within

a certain product category [¶ 73]. It would have been obvious to one of ordinary skill at

the time of the invention to have identified any type of customer group so that they may

be treated similarly and more effectively according to their tendencies. Further still, the

pricing (flat price of $25, a $25 sale price from $35, 50% off of a $50 item) can be

presented according to the type/model of shopper and their cost or savings tendencies.
HERZ et al teaches that the system can be used for any type of products and it would
have been obvious to one of ordinary skill at the time of the invention to have presented
customized technology ads for shoppers who have showed interest in technology
products.

6.   Regarding claims 12-13, 17, 19, the system of HERZ et al is taken to be a
system where profile collection and custom advertisement selections are made in real
time as the user is online.

7.   Regarding claim 18, any of the group treatments can be taken to meet the broad
"default" format. However applicant has not claimed any specific implementation of
how/when the default format is used. Nonetheless, HERZ et al may not specify a
default content to display to a default user, but it would have been obvious to one of
ordinary skill at the time of the invention to have displayed some ad content/formatting
to a particular new user until a meaningful user profile can generated over time as the
user shopped using the system, where after the user could then be treated to a more
customized experience.

8.   Claims 1-5, 7-9, 12-20 are rejected under 35 U.S.C. 103(a) as being
unpatentable over HERZ et al (US 2001/0014868) in view of Friedman et al
(US20030110293).

9.   Regarding claims 2, 9, 14, 20, HERZ et al teaches a dynamic, electronic,
customized advertising system where online shoppers are profiled based on

demographics as well as online shopping and purchasing history (collecting user data during prior web site visits) [¶ 0030-0033]. Users identify themselves to the web-based system and then may browse an online catalog for particular products, thus defining a "goal" for that user [¶ 0035, 0036]; this product-browsing is taken to provide receiving web site requests for web content by at least 1st and 2nd identified users. The system then references the user profiles and the defined "goal" and determines customized advertising/information to be presented to the identified user or type of shopper in order to provide the most effective visual and textual ads...Displayed content can be subtly rearranged, lengthened or shortened from one type of shopper to the next [abstract, ¶ 5]. Herz et al states that users may be clustered into groups and treated at the group level [0158]. This is taken to be equivalent to applicant's various user models and customizing the content at the model level [spec page 7 lines 5-10]. HERZ et al does not appear to teach determining the user's group/model according to a type of Internet service. Regarding the bandwidth claim language, applicant's claims do not require the user data to explicitly be or explicitly contain actual bandwidth data - but rather simply be data "indicative" of bandwidth. Further, applicant's targeting is claimed as accomplished by selecting web content for the user groups/models which are determined broadly according to the "Internet service type data" and not explicitly according to the bandwidth. Nonetheless, Friedman et al teaches adapted and tailored presentation of user advertising content according to several user profile parameters, including a parameter of the user's connection speed [0158, 0161]. This is taken to be an example of a user's Internet service type data. It would have been obvious to one of

ordinary skill at the time of the invention to have included the bandwidth/speed-targeting
of Friedman et al and to have stored the groups/models and the customized information
in a database so the system can systematically determine if the current identified user
matches (i.e. belongs) to such a group so that user may then be delivered with the
appropriate customized information. Herz et al's description that the customization of
the information may include "rearrangement" of the product information screen
[abstract, 0005: "detailed product information screens can be subtly rearranged from one type of
shopper to the next."] is taken to provide for delivery of the same content information to the
browsers of differently grouped users requesting the same product information, but with
the visual aspects/formatting of that information differing according to the users profile
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user shopped using the system, where after the user could then be treated to a more
customized experience.

Response to Arguments

13.   Applicant argues that Friedman et al teaches <u>individually</u> tailored content to
customer according to bandwidth and that the claims require targeting to a group of
users. First, HERZ et al is the base reference which sets forth targeting to different

groups of users. Friedman et al is simply used to demonstrate that other characteristics (such as bandwidth) can be used as a targeting parameter. This provides for predictable targeting whether to HERZ et al's user groups or individuals. Second, while Friedman et al provides for individualization according to targeting parameters, that "individualization" will be shared by other users (in that same group as the user) who share the user's characteristics. Therefore two users having the same or similar profile (bandwidth) with be targeted the same.

14.   Applicant argues that a user's IP address does not inherently convey the user's bandwidth. However Examiner stands behind his argument that a user's data (IP address, or identification of ISP) which defines their ISP as NetZero (a well known dialup ISP) could be argued to be "indicative" of a dial-up connection, and therefore indicative of the bandwidth associated with such dial-up technology. This is one firm example where Internet service type data (a user's ISP) is indicative of their bandwidth. Applicant's claims further do not require grouping/targeting to bandwidth.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey D. Carlson whose telephone number is 571-272-6716. The examiner can normally be reached on Monday-Fridays; off alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571)272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jeffrey D. Carlson/   Jeffrey D. Carlson
Primary Examiner, Art Unit 3622   Primary Examiner
                                              Art Unit 3622

jdc